

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, *et al.*,

Defendants.

Civil Action No. 1:25-cv-11221-WGY

NOTICE OF FILING ADMINISTRATIVE RECORD

On January 20, 2025, President Trump issued a Presidential Memorandum entitled, *Temporary Withdrawal of All Areas on the Outer Continental Shelf from Offshore Wind Leasing and Review of the Federal Government’s Leasing and Permitting Practices for Wind Projects*.

90 Fed. Reg. 8363 (Jan. 29, 2025) (“Wind Memo”).

Plaintiffs and Intervenor challenged a provision in Section 2(a) of the Wind Memo directing several agencies, led by the Department of the Interior, to “not issue renewed approvals, rights of way, permits, leases, or loans for onshore or offshore wind projects” *id.* at 8363-64 (the “temporary cessation directive” or “wind directive”) until a separate assessment and review of Federal wind leasing and permitting practices is completed.

In briefing and at oral argument before the Court, Plaintiffs and Intervenor maintained that the alleged final agency action they are challenging is a broad decision by the relevant agencies to temporarily cease issuing new approvals and other authorizations—not the subsequent downstream application of that alleged decision to specific projects or programs. *E.g.*, Pls.’ Reply 6, ECF No. 135 (conceding that they do not challenge “the many individual actions . . . taken to implement the

halt,” as they are merely the product “of the final action challenged here: ‘the decisions by the Agency Defendants to implement broad, categorical freezes on’ wind-energy approvals”); Interv.’s Reply 7 (challenging only “agency decisions to adopt the Wind Ban, not decisions on individual wind projects”); Tr. 24, June 18, 2025 (acknowledging that Plaintiffs “are not seeking an adjudication by a date certain for a specific project” but instead challenging an alleged agency decision to “categorically halt all wind energy approvals”). They also do not dispute that the assessment and review—which they have not challenged—is currently underway and being deliberated by the Department of the Interior and supporting agencies. *E.g.*, Pls.’ Reply 1 (recognizing that “the assessment is in early stages”); *see also* Tr. 27 (acknowledging that Intervenor’s claims seek only to vacate the temporary cessation directive “without awaiting completion” of the assessment and review).

During the June 18, 2025 hearing, the Court issued a tentative ruling, that would grant in part and deny in part Defendants’ Motion to Dismiss. The Court “rule[d] that this ‘pause,’ so denominated, is . . . in fact final agency action.” Tr. 32. But the Court dismissed Defendants other than the Secretary of the Interior, *id.*, and dismissed all of Plaintiffs’ and Plaintiff Intervenor’s non-APA claims, *id.* at 33. The Court then directed Defendants to file an administrative record that, according to Plaintiffs, “support[s] the decision to implement the wind directive.” *Id.* at 35.

Counsel for Defendants asked the Court to clarify that the administrative record is limited to the Department of the Interior as the only department remaining in the litigation and the Court confirmed “[o]nly the Department of Interior because they are the primary department. . . . But, yes, that’s my understanding.” Tr. 38.

Accordingly, based on Defendants’ understanding of the Court’s tentative ruling, and without waiving any arguments to the contrary, Defendants attach the certifying declaration of Matthew Giacona and accompanying administrative record for the alleged decision challenged by Plaintiffs in this action.

Respectfully submitted this 2nd day of July 2, 2025.

ADAM R. F. GUSTAFSON

Acting Assistant Attorney General
U.S. Department of Justice
Environment & Natural Resources Division

/s/ Michael K. Robertson

MICHAEL K. ROBERTSON
Trial Attorney (DC Bar No. 1017183)
U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
4 Constitution Square
150 M Street NE
Washington, DC 20002
Tel: (202)-305-9609
Email: Michael.Robertson@usdoj.gov

PHILLIP R. DUPRÉ
Senior Attorney (TX Bar No. 24069650)
U.S. Department of Justice
Environment & Natural Resources Division
Environmental Defense Section
4 Constitution Square
150 M Street NE
Washington, DC 20002
Tel: (202) 598-9530
Email: Phillip.R.Dupre@usdoj.gov

ROBERT P. WILLIAMS
Senior Trial Attorney (DC Bar No. 474730)
U.S. Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
Ben Franklin Station, P.O. Box 7611
Washington, D.C. 20044
Tel: (202) 305-0210 | Fax: (202) 305-0275
Email: robert.p.williams@usdoj.gov

KIERAN O'NEIL
Trial Attorney (AK Bar No. 2311132)
U.S. Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
Tel: (202) 353-7548
Email: kieran.o'neil@usdoj.gov

Attorneys for Federal Defendants